

REMARKS

Applicant appreciates the Examiner's review of the above-identified patent application and respectfully requests reconsideration and allowance in view of the above amendments and following remarks. With this amendment, claims 3, 4, 7, 8, 15, 16, 19-28, 31-36, 39-40, and 42-44 remain in this application. Claim 41 is currently cancelled. Claims 3, 4, 16, 22, 36, and 39 are currently amended.

Claims 3, 4, 16, 22, 36, 39, and 41 had been objected to do to several informalities. With this amendment, Applicant has amended these claims to correct the informalities in accordance with the Examiner's suggestions. Accordingly, Applicant respectfully submits that the objection has been overcome.

Claims 3, 4, 7, 8, 15, 16, 19-28, 31-36, and 39-42 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Peyre (U.S. Patent No. 5,044,656, hereinafter referred to as "Peyre"). Applicant respectfully traverses this rejection.

Independent claims 3 and 39 recited, in relevant part, a toe holding means pivotally connected to the top plate. Independent claim 15 recites, in relevant part, a toe holding means translatably connected to the top plate. Applicant respectfully

submits that Peyre does not disclose or suggests these limitations. In paragraph 5 of the present office action, the Examiner states that the toe holding means (numeral 43) of Peyre is pivotally/translatably connected to the top plate (numeral 21) via a pin that is not labeled, as best seen in figure 4. Applicant respectfully submits that this is an improper interpretation of Peyre.

Applicant respectfully submits that nothing in Peyre discloses or suggests that the front boot holding means 43 is pivotally or translatably connected to boot plate 21. Applicant also respectfully traverses the Examiner's assertion that Peyre discloses a pin that pivotally/translatably connects the front boot holding means 43 to the boot plate 21. At best, Applicant respectfully submits that Peyre appears to suggest that the front boot holding means 43 is rigidly connected to the boot plate 21.

Applicant respectfully submits that Peyre does not directly address how the front boot holding means 43 is connected to the boot plate 21. Referring specifically to column 6, lines 42-47 and figures 35 and 36, Peyre does states, however,

FIGS. 35 and 36 show a binding analogous to FIG. 16 in which however the boot 31 is inserted into a resilient holder 62 which represents an integrated component of the

boot plate 21. The holder 62 can have further non-illustrated boot holding means which releasably secure the boot 31 to the boot plate 21.

In accordance with a further alternative the holder 62 can form an integral component of the boot 31 which is thereby structurally united with the boot plate 21.

Accordingly, while Peyre does not directly address how the front boot holding means 43 is connected to the boot plate 21, Applicant respectfully submits that the above-cited passage suggests that the front boot holding means 43 is analogous to the resilient holder 62, and therefore suggests that the front boot holding means 43 is rigidly connected to the boot plate 21.

In view of the above, Applicant respectfully submits that the Examiner's assertion that the front boot holding means 43 to pivotally/translatably connected to the boot plate 21 is improper.

Therefore, after strictly submits that the rejection of claims 3, 4, 7, 8, 15, 16, 19-28, 31-36, and 39-42 under 35 U.S.C. § 102(b) as being anticipated by Peyre is improper and should be withdrawn.

Claims 3, 4, 7, 15, 16, 19, 20, 23, 27, 30 1, 32, 35, 36, 39, 40, 41, and 43 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Rohrmoser (U.S. Patent No. 5,213,356, hereinafter referred to as "Rohrmoser"). Applicant respectfully traverses this rejection.

Independent claims 3, and 15 recite, in relevant part, a static plate capable of being attached to the ski or ski board. Independent claim 39 recites, in relevant part, "a rigid static base plate". Independent claim 43 recites, in relevant part, "a plate over which said ski boot may be placed, said plate adapted to be statically mounted to said ski". Applicant respectfully submits that Rohrmoser does not disclose or suggest these limitations.

In paragraph 6 of the present office action, the Examiner refers to the strip-shaped connection element 8 of Rohrmoser as reading on the static plate of the present invention. Applicant respectfully submits, however, that the strip-shaped connection element 8 of Rohrmoser is not static, but rather that it is moveable. Referring specifically to column 4, lines 11-18, Rohrmoser states,

Toe binding 4 and heel binding 5 are connected via a strip-shaped connection element 8, which is deformable. Connection element 8 can be deformed in the lateral direction of ski 3, as well as in the longitudinal direction between toe and heel bindings 4, 5 via attachment elements 9.

In view of the above-cited passage, Applicant respectfully that the Examiner's assertion that the strip-shaped connection element

8 of Rohrmoser is static is improper. Accordingly, Applicant respectfully submits that the rejection of claims 3, 4, 7, 15, 16, 19, 20, 23, 27, 30 1, 32, 35, 36, 39, 40, 41, and 43 under 35 U.S.C. § 102(b) as being anticipated by Rohrmoser is improper and should be withdrawn.

Lastly, claims 43 and 44 had been rejected under 35 U.S.C. § 102(b) as being anticipated by Pascal et al. (U.S. Patent No. 4,679,815, hereinafter referred to as "Pascal"). Applicant respectfully traverses this rejection.

Independent claim 43 has been amended to recite, in relevant part, "a plate over which said ski boot may be placed, said plate adapted to be statically mounted to said ski". Applicant respectfully submits that Pascal does not disclose or suggest these limitations.

In paragraph 7 of the present office action, the Examiner refers to plate 1 as reading on the plate of independent claim 43.

Referring specifically to column 4, lines 65-68 and FIG 3, Pascal states, in relevant part,

FIG 3 shows one phase of a torsional release. It is noted that plate 1, as well as rear protection means 5, pivot together around axis YY', while the front retention means pivots laterally along F1.


In view of the above-cited passage, Applicant respectfully that the plate 1 of Pascal is not static. Accordingly, Applicant respectfully submits that the rejection of claims 43 and 44 under 35 U.S.C. § 102(b) as being anticipated by Pascal is improper and should be withdrawn.

For at least the above reasons, Applicant respectfully submits that the pending claims are in condition for allowance. Early and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned, Applicant's Attorney of Record, to facilitate advancement of the present application.

Respectfully submitted,

David Dodge

By


Paul J. Kroon, Jr., Esq.
Registration No. 51,902
Attorney for Applicant

BOURQUE & ASSOCIATES, P.A.
835 Hanover Street, Suite 301
Manchester, New Hampshire 03104

Telephone: (603) 623-5111
Facsimile: (603) 624-1432

Date: July 22, 2004